

SCOTTSDALE

CITY COUNCIL MEETING

AGENDA



COUNCIL

Mary Manross, Mayor

Wayne Ecton

Robert W. Littlefield

Cynthia Lukas

Ned O'Hearn

David Ortega

Tom Silverman

Wednesday, July 2, 2003

5:00 P.M.

CITY COUNCIL MEETING

Call to Order – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard

Roll Call

Presentations/Information Updates

Public Comment

Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during this evening's meeting. Please check the box that refers to "public comment." This "Public Comment" time is reserved for citizen comments regarding non-agendized items. No official Council action can be taken on these items.

Minutes

SPECIAL MEETINGS

REGULAR MEETINGS

EXECUTIVE SESSIONS

June 16, 2003

June 17, 2003

1. Sugo Pastaria Winebar Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for an existing restaurant formerly operating under the business name Zanzibar.

Location: 4151 N. Marshall Way, Suites 8, 9, & 10

Reference: 23-LL-2003

Staff Contact(s): Jeff Fisher, Plan Review and Permit Services Director, 480-312-7619,
Jfisher@ScottsdaleAZ.Gov

2. Nantucket Seafood & Raw Bar Liquor License

Request: Consider forward a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a new restaurant location.

Location: 7000 E. Shea Blvd, Suite 125

Reference: 33-LL-2003

Staff Contact(s): Jeff Fisher, Plan Review and Permit Services Director, 480-312-7619,
Jfisher@ScottsdaleAZ.Gov

3. Bar 74 Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person and location transfer of a series 6 (bar) State liquor license under the business name Kamikazi Coast.

Location: 7443 E. 6th Avenue

Reference: 34-LL-2003

Staff Contact(s): Jeff Fisher, Plan Review and Permit Services Director, 480-312-7619,
E-mail: Jfisher@ScottsdaleAZ.Gov

4. Taco 'Te Beach Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for the former Hola Café, which also operated with a series 12 (restaurant) license.

Location: 2515 N. Scottsdale Rd. #2-3-4

Reference: 35-LL-2003

Staff Contact(s): Jeff Fisher, Plan Review and Permit Services Director, 480-312-7619,
E-mail: Jfisher@ScottsdaleAZ.Gov

5. Homewood Suites Hotel Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 7 (beer & wine bar) State liquor license for an existing hotel location.

Location: 9880 N. Scottsdale Road

Reference: 36-LL-2003

Staff Contact: Jeff Fisher, Plan Review and Permit Services Director, 480-312-7619,
E-mail: Jfisher@ScottsdaleAZ.Gov

6. D'atri's at the Scottsdale Airport Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for an existing restaurant location. This request is due to a change in the ownership of the business.

Location: 15000 N. Airport Drive

Reference: 37-LL-2003

Staff Contact(s): Jeff Fisher, Plan Review and Permit Services Director, 480-312-7619,

E-mail: Jfisher@ScottsdaleAZ.Gov

7. D'atri's at the Scottsdale Airport Liquor License

Request: Consider forward a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 07 (beer/wine bar) State liquor license for an existing cappaccino/expresso bar. This request is due to a change in the ownership of the business.

Location: 15000 N. Airport Drive

Reference: 38-LL-2003

Staff Contact(s): Jeff Fisher, Plan Review and Permit Services Director, 480-312-7619,

E-mail: Jfisher@ScottsdaleAZ.Gov

8. Jacqueline's Marketplace Cafe Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for an existing establishment. This restaurant previously operated with a series 07 (beer/wine bar) liquor license.

Location: 7303 E. Indian School Rd.

Reference: 40-LL-2003

Staff Contact(s): Jeff Fisher, Plan Review and Permit Services Director, 480-312-7619,

E-mail: Jfisher@ScottsdaleAZ.Gov

9. World Affairs Council contract for international visitor services

Request: Authorize Contract # 2003-119-COS, for \$27,540 in FY 2003-04 and \$28,230 in FY 2004-05, with the World Affairs Council of Arizona, Inc., to assist international visitors, provide protocol services and provide office space for the Scottsdale Sister City Committee.

Related Policies, References:

Contract #2001-091-COS, a similar contract, was approved by the City Council on June 18, 2001. That contract expires on June 30, 2003.

Staff Contact(s): Jeff Kulaga, Executive Assistant, (480) 312-7496, jkulaga@ScottsdaleAZ.gov;

Pat Dodds, Public Affairs Officer, (480) 312-2336, pdodds@ScottsdaleAZ.gov

Regular Agenda begins on the following page

10. Los Arcos Redevelopment Agreement

Request: Adopt Resolution No. 6324 authorizing Contract No. 2003-115-COS, and approve Contract No. 2003-115-COS, a proposed Redevelopment Agreement between the City and Los Arcos Development, LLC for the redevelopment of the former Los Arcos Mall site at the southeast corner of Scottsdale Rd. and McDowell.

Related Policies, References:

- Council forms Los Arcos Redevelopment District -- 12/18/95
- Los Arcos Redevelopment Plan adopted -- 7/2/96
- Original Los Arcos Request for Proposals Issued -- 7/18/97
- Council Action on preferred Smith Group development option -- 2/5/02
- Council directs staff to proceed with negotiations with The Ellman Companies for the redevelopment of Los Arcos -- 2/18/03; reaffirmed by Council -- 3/3/03.

Staff Contact(s): David Roderique, Economic Vitality General Manager, 480-312-7601, droderique@scottsdaleaz.gov

Public Comment

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City Manager's Report**Mayor and Council Items****Adjournment**

Section 2.17 of the Scottsdale City Code states, "Regular Meetings that are scheduled to be conducted on consecutive days may be combined and held on either of the two (2) days, at the election of the council, and shall be considered a single meeting." The Council may hold over any items noticed on the Tuesday agenda to the agenda for the Wednesday meeting.

CITY COUNCIL REPORT



MEETING DATE: July 2, 2003

ITEM No. _____

GOAL: Preserve Character and Environment

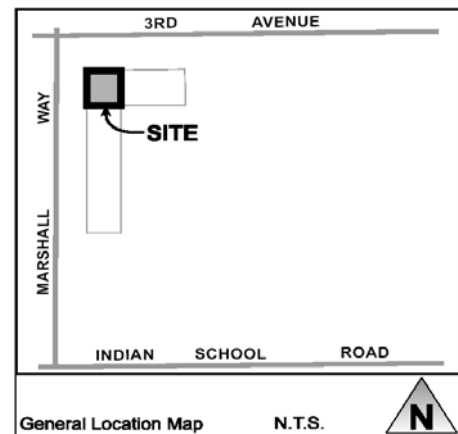
SUBJECT Restaurant Liquor License Request for Sugo Pastaria Winebar
23-LL-2003

REQUEST To consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for an existing restaurant formerly operating under the business name Zanzibar.

OWNER Pippo L.L.C.

APPLICANT CONTACT Cristiani Maurizio
480-949-7846

LOCATION 4151 N. Marshall Way, Suites
8, 9, & 10



BACKGROUND This site is zoned C-2 (Central Business District).

This is a request for a new series 12 (restaurant) liquor license for an existing restaurant. This location operated previously under the business name Zanzibar. This request is due to a change in the ownership of the business.

The distance to the nearest school, Villa de Marie Academy, is 3100 ft. The distance to the nearest church, Scottsdale United Methodist, is 2800ft.

There are 93 liquor licenses within a one half mile radius of this location.

**APPLICANT'S
PROPOSAL**

Goal/Purpose of Request.

The applicant is seeking a favorable recommendation on a series 12 (restaurant) liquor license. The applicant has maintained the required posting notice for the State mandated 20-day period.

(Continued)

IMPACT ANALYSIS

Police/Fire. The Police Department has conducted a review and recommends approval of this case.

Financial Services. Revenue Collection has reported that the applicant has met City licensing requirements and all fees have been paid.

Parking. Planning and Development Services has conducted a review of the parking requirements. The restaurant is located in a building that includes many storefronts with a variety of uses. According to the Zoning Ordinance, the restaurant requires 36.83 parking spaces. The entire building, including the restaurant, requires 72 parking spaces. There are 51 parking spaces located on the site and 14.42 on-street parking credits applied to the site for a total of 65.42. Having a variety of uses, including office, art galleries, retail, multi-family, and restaurant, the applicant has applied the mixed-use shared parking program to the site. After the calculations, this program requires the site to have 62 parking spaces. The parking for this restaurant and site is in compliance with the zoning ordinance.

Development Information. This establishment is 2468 square feet with a 650 square foot outdoor patio area.

Maricopa County. Maricopa County Environmental Health has reviewed this application and reported no opposition to this case.

Community involvement. No petitions or protests have been filed with the City Clerk during the 20 (twenty) day posting period.

**STATE GUIDELINES
FOR CONSIDERING AN
APPLICATION**

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.

8. The compatibility of the proposed business with other activity in close proximity.
9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.

**OPTIONS AND STAFF
RECOMMENDATION**

City Council has the option of recommending approval or denial to the Arizona Department of Liquor Licenses and Control.

Recommended Approach: The review of this application has shown that it meets zoning, parking, and public safety requirements.
Staff recommends approval.

Proposed Next Steps: The City Council's recommendation of approval or denial will be forwarded to the Department of Liquor Licenses and Control for their consideration. If the application is approved by the Department of Liquor Licenses and Control, the applicant should receive their license from the State within 15 days.

**RESPONSIBLE
DEPT(S)
STAFF CONTACT(S)**

Planning and Development Services Department

Jeff Fisher
Plan Review and Permit Services Director
480-312-7619
E-mail: Jfisher@ScottsdaleAZ.Gov

APPROVED BY

Kroy Ekblaw	Date
Planning and Development Services General Manager	

Ed Gawf	Date
Deputy City Manager	

ATTACHMENTS

- #1: Aerial Map
- #2: Vicinity Map
- #3: Graphic – Liquor license locations within ½ mile
- #4: Application

CITY COUNCIL REPORT



MEETING DATE: July 2, 2003

ITEM NO. _____

GOAL: Preserve Character and Environment

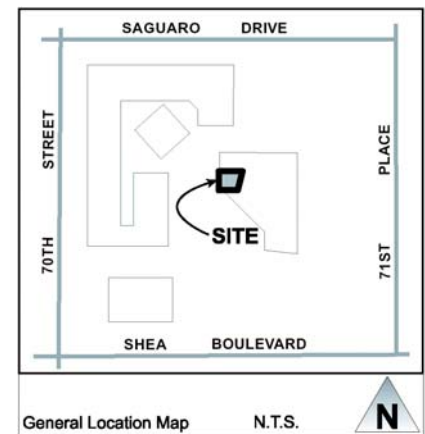
SUBJECT Restaurant Liquor License Request for Nantucket Seafood & Raw Bar (33-LL-2003)

REQUEST To consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a new restaurant location.

OWNER Fred Peter Guaragna

APPLICANT CONTACT Fred Peter Guaragna
480-743-1963

LOCATION 7000 E. Shea Blvd, Suite 125



BACKGROUND

This site is zoned C-2 (Central Business District).

This request is for a new series 12 (restaurant) liquor license for a restaurant location. This establishment previously operated without a liquor license under the business name Delicious Café.

The distance to the nearest school, Chaparral High School, is 1400 feet. The distance to the nearest church, Chaparral Christian Church, is 3100 feet.

There are 49 liquor licenses within a one half mile radius of this location.

APPLICANT'S PROPOSAL

Goal/Purpose of Request.

The applicant is seeking a favorable recommendation on a series 12 (restaurant) liquor license. The applicant has maintained the required posting notice for the State mandated 20-day period.

IMPACT ANALYSIS

Police/Fire. The Police Department has conducted a review and recommends approval of this case.

Financial Services. Revenue Collection has reported that the applicant has met City licensing requirements and all fees have been paid.

(Continued)

Parking. Planning and Development Services has conducted a review of the parking requirements. There are no interior modifications or changes intended for this establishment. Parking is in compliance with the zoning ordinance.

Development Information. This establishment is 1764 sq. ft.

Maricopa County. Maricopa County Environmental Health has reviewed this application and reported no opposition to this case.

Community involvement. No petitions or protests have been filed with the City Clerk during the 20 (twenty) day posting period.

**STATE GUIDELINES
FOR CONSIDERING AN
APPLICATION**

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.
8. The compatibility of the proposed business with other activity in close proximity.
9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.

**OPTIONS AND STAFF
RECOMMENDATION**

City Council has the option of recommending approval or denial to the Arizona Department of Liquor Licenses and Control.

Recommended Approach: The review of this application has shown that it meets zoning, parking, and public safety requirements. Staff recommends approval.

Proposed Next Steps: The City Council's recommendation of approval or denial will be forwarded to the Department of Liquor Licenses and Control for their consideration. If the application is approved by the Department of Liquor Licenses and Control, the applicant should receive their license from the State within 15 days.

RESPONSIBLE**DEPT(S)****STAFF CONTACT(S)****Planning and Development Services Department**

Jeff Fisher
Plan Review and Permit Services Director
480-312-7619
E-mail: Jfisher@ScottsdaleAZ.Gov

APPROVED BY

Kroy Ekblaw	Date
Planning and Development Services General Manager	

Ed Gawf	Date
Deputy City Manager	

ATTACHMENTS

- #1: Aerial Map
- #2: Vicinity Map
- #3: Graphic – Liquor license locations within ½ mile
- #4: Application

CITY COUNCIL REPORT



MEETING DATE: July 2, 2003

ITEM NO. _____

GOAL: Preserve Character and Environment

SUBJECT

**Bar Liquor License Request for Bar 74
34-LL-2003**

REQUEST

To consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person and location transfer of a series 6 (bar) State liquor license for an establishment which previously operated with a series 06 (bar) liquor license under the business name Kamikazi Coast.

OWNER

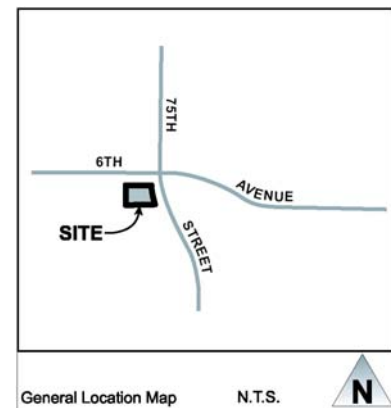
Sigmaetha Group LLC

APPLICANT CONTACT

Timothy Short
602-295-5463

LOCATION

7443 E. 6th Avenue



BACKGROUND

This site is zoned C-3/P-3/P-2 (Highway Commercial District/Parking District/Passenger Automobile Parking).

This request is for a person and location transfer of a series 06 (bar) liquor license. This vacant location is not currently licensed, but previously operated with a series 06 (bar) liquor license under the business name Kamikazi Coast.

This license is being transferred from:
Randy Nations
Murphy's Irish Pub
1126 N. Scottsdale Road #5

The distance to the nearest school, Our Lady of Perpetual Help, is 2200 feet.

The distance to the nearest church, Scottsdale United Methodist, is 700 feet.

As indicated on the attached map (attachment #3), there are 76 liquor licenses within a one half mile radius of this location.

(Continued)

**APPLICANT'S
PROPOSAL**

Goal/Purpose of Request.

The applicant is seeking a favorable recommendation on a series 06 (bar) liquor license. The applicant has maintained the required posting notice for the State mandated 20-day period.

IMPACT ANALYSIS

Police/Fire. The Police Department has conducted a review and recommends approval of this case.

Financial Services. Revenue Collection has reported that the applicant has met City licensing requirements and all fees have been paid.

Parking. Planning and Development Services has conducted a review of the parking requirements. According the Zoning Ordinance, the establishment is required to provide 30 parking spaces. There are 13.76 Parking District (P-3) parking credits, 2.68 on-street parking credits, 4.0 parking credits from a past variance (see attachment #5), and 10 on-site parking spaces at the rear of the building. Therefore, there are 30.44 parking spaces allocated to this site. Parking is in compliance with the zoning ordinance.

Development Information. This establishment is approx. 3300 sq. ft.

Maricopa County. Maricopa County Environmental Health has reviewed this application and reported no opposition to this case.

Community involvement. No petitions or protests have been filed with the City Clerk during the 20 (twenty) day posting period.

**STATE GUIDELINES
FOR CONSIDERING AN
APPLICATION**

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.
8. The compatibility of the proposed business with other activity in close proximity.

9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.

10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.

11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.

**OPTIONS AND STAFF
RECOMMENDATION**

City Council has the option of recommending approval or denial to the Arizona Department of Liquor Licenses and Control.

Recommended Approach: The review of this application has shown that it meets zoning, parking, and public safety requirements.
Staff recommends approval.

Proposed Next Steps: The City Council's recommendation of approval or denial will be forwarded to the Department of Liquor Licenses and Control for their consideration. If the application is approved by the Department of Liquor Licenses and Control, the applicant should receive their license from the State within 15 days.

**RESPONSIBLE
DEPT(S)
STAFF CONTACT(S)**

Planning and Development Services Department

Jeff Fisher
Plan Review and Permit Services Director
480-312-7619
E-mail: Jfisher@ScottsdaleAZ.Gov

APPROVED BY

Kroy Ekblaw	Date
Planning and Development Services General Manager	

Ed Gawf	Date
Deputy City Manager	

ATTACHMENTS

- #1: Aerial Map
- #2: Vicinity Map
- #3: Graphic – Liquor license locations within ½ mile
- #4: Application
- #5: Variance (56-BA-76)

CITY COUNCIL REPORT



MEETING DATE: July 2, 2003

ITEM NO. _____

GOAL: Preserve Character and Environment

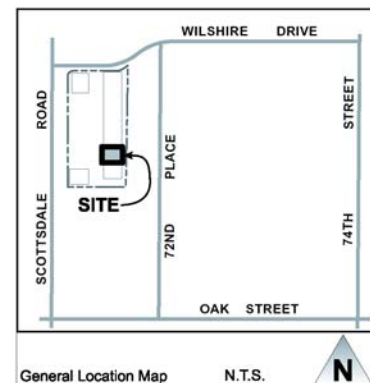
SUBJECT Restaurant Liquor License Request for Taco 'Te Beach
35-LL-2003

REQUEST To consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for the former Hola Café, which also operated with a series 12 (restaurant) license.

OWNER Taco Tote LLC

APPLICANT CONTACT Max Farah
480-429-0990

LOCATION 2515 N. Scottsdale Rd. #2-3-4



BACKGROUND This site is zoned C-3 (Highway Commercial District). This request is for a new series 12 (restaurant) liquor license. This location previously operation with a series 12 (restaurant) liquor license under the business name Hola Café. The distance to the nearest school, Coronado High School, is 1000 feet. The distance to the nearest church, Scottsdale Baptist Church, is 130 feet. There are 26 liquor licenses within a one half mile radius of this location.

APPLICANT'S PROPOSAL **Goal/Purpose of Request.** The applicant is seeking a favorable recommendation on a series 12 liquor license. The applicant has maintained the required posting notice for the State mandated 20-day period.

IMPACT ANALYSIS **Police/Fire.** The Police Department has conducted a review and recommends approval of this case.

Financial Services. Revenue Collection has reported that the applicant has met City licensing requirements and all fees have been paid.

Parking. Planning and Development Services has conducted a review of the parking requirements. There are no interior modifications or changes intended for this establishment. Parking is in compliance with the zoning ordinance.

(Continued)

Development Information. This establishment is 4350 sq. ft.

Maricopa County. Maricopa County Environmental Health has reviewed this application and reported no opposition to this case.

Community involvement. No petitions or protests have been filed with the City Clerk during the 20 (twenty) day posting period.

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APPLICATION**

R19-1-102. Granting a License for a Certain Location

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9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.

**OPTIONS AND STAFF
RECOMMENDATION**

City Council has the option of recommending approval or denial to the Arizona Department of Liquor Licenses and Control.

Recommended Approach: The review of this application has shown that it meets zoning, parking, and public safety requirements.
Staff recommends approval.

Proposed Next Steps: The City Council's recommendation of approval or denial will be forwarded to the Department of Liquor Licenses and Control for their consideration. If the application is approved by the Department of Liquor Licenses and Control, the applicant should receive their license from the State within 15 days.

**RESPONSIBLE
DEPT(S)
STAFF CONTACT(S)**

Planning and Development Services Department

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Plan Review and Permit Services Director
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E-mail: Jfisher@ScottsdaleAZ.Gov

APPROVED BY

Kroy Ekblaw	Date
Planning and Development Services General Manager	

Ed Gawf	Date
Deputy City Manager	

ATTACHMENTS

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- #2: Vicinity Map
- #3: Graphic – Liquor license locations within ½ mile
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CITY COUNCIL REPORT



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ITEM NO. _____

GOAL: Preserve Character and Environment

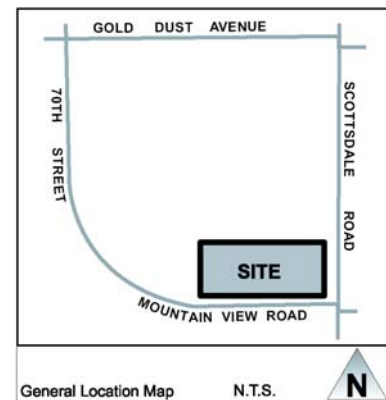
SUBJECT Beer/Wine Bar Liquor License Request for Homewood Suites Hotel
36-LL-2003

REQUEST To consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for the person transfer of a series 7 (beer & wine bar) State liquor license for an existing hotel location.

OWNER Woodbridge Hospitality, L.L.C.

APPLICANT CONTACT Lawrence Benjamin
480-368-8705

LOCATION 9880 N. Scottsdale Road



BACKGROUND This site is zoned R-5 (Multiple-family residential district). This request is for a person transfer of a series 07 (beer/wine bar) liquor license for an existing hotel location. This request is due to a change in the person responsible for the liquor license. The business name and operation will remain the same.

The distance to the nearest school, Chaparral High School, is 600 ft.
The distance to the nearest church, Scottsdale Bible Church, is 3250 ft.
There are 25 liquor licenses within a one half mile radius of this location.

APPLICANT'S PROPOSAL **Goal/Purpose of Request.**
The applicant is seeking a favorable recommendation on a series 07 liquor license. The applicant has maintained the required posting notice for the State mandated 20-day period.

IMPACT ANALYSIS **Police/Fire.** The Police Department has conducted a review and recommends approval of this case.

Financial Services. Revenue Collection has reported that the applicant has met City licensing requirements and all fees have been paid.

(Continued)

Parking. Planning and Development Services has conducted a review of the parking requirements. There are no interior modifications or changes intended for this establishment. Parking is in compliance with the zoning ordinance.

Maricopa County. Maricopa County Environmental Health has reviewed this application and reported no opposition to this case.

Community involvement. No petitions or protests have been filed with the City Clerk during the 20 (twenty) day posting period.

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R19-1-102. Granting a License for a Certain Location

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**OPTIONS AND STAFF
RECOMMENDATION**

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Recommended Approach: The review of this application has shown that it meets zoning, parking, and public safety requirements. Staff recommends approval.

Proposed Next Steps: The City Council's recommendation of approval or denial will be forwarded to the Department of Liquor Licenses and Control for their consideration. If the application is approved by the Department of Liquor Licenses and Control, the applicant should receive their license from the State within 15 days.

**RESPONSIBLE
DEPT(S)
STAFF CONTACT(S)**

Planning and Development Services Department

Jeff Fisher
Plan Review and Permit Services Director
480-312-7619
E-mail: Jfisher@ScottsdaleAZ.Gov

APPROVED BY

Kroy Ekblaw	Date
Planning and Development Services General Manager	

Ed Gawf	Date
Deputy City Manager	

ATTACHMENTS

- #1: Aerial Map
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- #4: Application

CITY COUNCIL REPORT



MEETING DATE: July 2, 2003

ITEM NO. _____

GOAL: Preserve Character and Environment

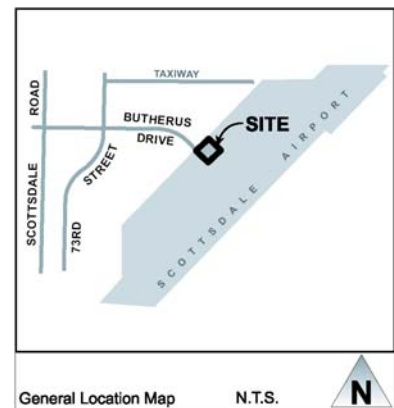
SUBJECT Restaurant Liquor License Request for D'atri's at the Scottsdale Airport 37-LL-2003

REQUEST To consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for an existing restaurant location. This request is due to a change in ownership of the business.

OWNER Blue Fig, LLC

APPLICANT CONTACT Lan-Vi Tran
480-948-8585

LOCATION 15000 N. Airport Drive



BACKGROUND

This site is zoned I-1 (Industrial Park District).

This request is for a new series 12 (restaurant) liquor license for an existing establishment currently operating with a series 12 license. This request is due to a change in the ownership of the business. The establishment will continue to operate under the same business name.

The distance to the nearest school, Sonoran Sky, is 6400 ft.
The distance to the nearest church, Thunderbird Adventist, is 4400 ft.
There are 4 liquor licenses within a one half mile radius of this location.

APPLICANT'S PROPOSAL

Goal/Purpose of Request.

The applicant is seeking a favorable recommendation on a series 12 (restaurant) liquor license. The applicant has maintained the required posting notice for the State mandated 20-day period.

IMPACT ANALYSIS

Police/Fire. The Police Department has conducted a review and recommends approval of this case.

Financial Services. Revenue Collection has reported that the applicant

(Continued)

has met City licensing requirements and all fees have been paid.

Parking. Planning and Development Services has conducted a review of the parking requirements. There are no interior modifications or changes intended for this establishment. Parking is in compliance with the zoning ordinance.

Development Information. This establishment is 416 sq. ft.

Maricopa County. Maricopa County Environmental Health has reviewed this application and reported no opposition to this case.

Community involvement. No petitions or protests have been filed with the City Clerk during the 20 (twenty) day posting period.

STATE GUIDELINES FOR CONSIDERING AN APPLICATION

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.
8. The compatibility of the proposed business with other activity in close proximity.
9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.

OPTIONS AND STAFF

City Council has the option of recommending approval or denial to the

RECOMMENDATION

Arizona Department of Liquor Licenses and Control.

Recommended Approach: The review of this application has shown that it meets zoning, parking, and public safety requirements.

Staff recommends approval.

Proposed Next Steps: The City Council's recommendation of approval or denial will be forwarded to the Department of Liquor Licenses and Control for their consideration. If the application is approved by the Department of Liquor Licenses and Control, the applicant should receive their license from the State within 15 days.

RESPONSIBLE

Planning and Development Services Department

DEPT(S)

STAFF CONTACT(S)

Jeff Fisher
Plan Review and Permit Services Director
480-312-7619
E-mail: Jfisher@ScottsdaleAZ.Gov

APPROVED BY

Kroy Ekblaw	Date
Planning and Development Services General Manager	

Ed Gawf	Date
Deputy City Manager	

ATTACHMENTS

- #1: Aerial Map
- #2: Vicinity Map
- #3: Graphic – Liquor license locations within ½ mile
- #4: Application

CITY COUNCIL REPORT



MEETING DATE: July 2, 2003

ITEM NO. _____

GOAL: Preserve Character and Environment

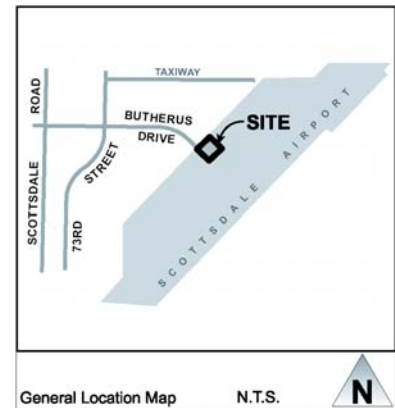
SUBJECT Beer/Wine Bar Liquor License Request for D'atri's at the Scottsdale Airport
38-LL-2003

REQUEST To consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 07 (beer/wine bar) State liquor license for an existing cappuccino/expresso bar. This request is due to a change in the ownership of the business.

OWNER Blue Fig, LLC

APPLICANT CONTACT Lan-Vi Tran
480-948-8585

LOCATION 15000 N. Airport Drive



BACKGROUND This site is zoned I-1 (Industrial Park District).

This request is for a person and location transfer of a series 07 (beer/wine bar) liquor license for an existing establishment also operating with a series 12 (restaurant) license. This request is due to a change in the ownership of the business. The establishment will continue to operate under the same business name.

The distance to the nearest school, Sonoran Sky, is 6400 ft.
The distance to the nearest church, Thunderbird Adventist, is 4400 ft.
There are 4 liquor licenses within a one half mile radius of this location.

APPLICANT'S PROPOSAL **Goal/Purpose of Request.**
The applicant is seeking a favorable recommendation on a person and location transfer of a series 07 (beer/wine bar) liquor license. The applicant has maintained the required posting notice for the State mandated 20-day period.

IMPACT ANALYSIS **Police/Fire.** The Police Department has conducted a review and recommends approval of this case.

(Continued)

Financial Services. Revenue Collection has reported that the applicant has met City licensing requirements and all fees have been paid.

Parking. Planning and Development Services has conducted a review of the parking requirements. There are no interior modifications or changes intended for this establishment. Parking is in compliance with the zoning ordinance.

Development Information. This establishment is 416 sq. ft.

Maricopa County. Maricopa County Environmental Health has reviewed this application and reported no opposition to this case.

Community involvement. No petitions or protests have been filed with the City Clerk during the 20 (twenty) day posting period.

**STATE GUIDELINES
FOR CONSIDERING AN
APPLICATION**

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.
8. The compatibility of the proposed business with other activity in close proximity.
9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.

**OPTIONS AND STAFF
RECOMMENDATION**

City Council has the option of recommending approval or denial to the Arizona Department of Liquor Licenses and Control.

Recommended Approach: The review of this application has shown that it meets zoning, parking, and public safety requirements. Staff recommends approval.

Proposed Next Steps: The City Council's recommendation of approval or denial will be forwarded to the Department of Liquor Licenses and Control for their consideration. If the application is approved by the Department of Liquor Licenses and Control, the applicant should receive their license from the State within 15 days.

**RESPONSIBLE
DEPT(S)
STAFF CONTACT(S)**

Planning and Development Services Department

Jeff Fisher
Plan Review and Permit Services Director
480-312-7619
E-mail: Jfisher@ScottsdaleAZ.Gov

APPROVED BY

Kroy Ekblaw	Date
Planning and Development Services General Manager	

Ed Gawf	Date
Deputy City Manager	

ATTACHMENTS

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- #2: Vicinity Map
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CITY COUNCIL REPORT



MEETING DATE: July 2, 2003

ITEM NO. _____

GOAL: Preserve Character and Environment

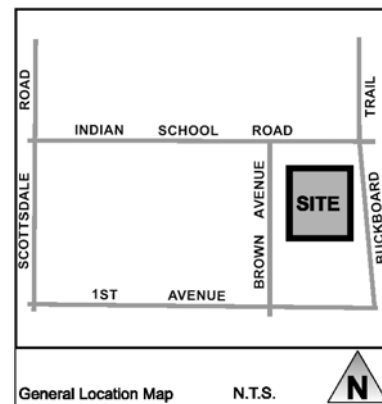
SUBJECT Restaurant Liquor License Request for Jacqueline's Marketplace Cafe
40-LL-2003

REQUEST To consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for an existing establishment. This restaurant previously operated with a series 07 (beer/wine bar) liquor license.

OWNER MKB, LLC Scottsdale

APPLICANT CONTACT Brian Nystrom
480-947-8777

LOCATION 7303 E. Indian School Rd.



BACKGROUND This site is zoned C-2 (Central Business District).

This request is for a new series 12 (restaurant) liquor license for an existing establishment that previously operated with a series 07 (beer/wine bar) liquor license. The establishment will continue to operate under the same business name.

The distance to the nearest school, Our Lady of Perpetual Help, is 2125 ft. The distance to the nearest church, Scottsdale Methodist Church, is 1400 ft. There are 103 liquor licenses within a one half mile radius of this location.

**APPLICANT'S
PROPOSAL**

Goal/Purpose of Request.

The applicant is seeking a favorable recommendation on a series 12 (restaurant) liquor license. The applicant has maintained the required posting notice for the State mandated 20-day period.

IMPACT ANALYSIS

Police/Fire. The Police Department has conducted a review and recommends approval of this case.

Financial Services. Revenue Collection has reported that the applicant has

(Continued)

met City licensing requirements and all fees have been paid.

Parking. Planning and Development Services has conducted a review of the parking requirements. There are no interior modifications or changes intended for this establishment. Parking is in compliance with the zoning ordinance.

Development Information. This establishment is 5500 sq. ft.

Maricopa County. Maricopa County Environmental Health has reviewed this application and reported no opposition to this case.

Community involvement. No petitions or protests have been filed with the City Clerk during the 20 (twenty) day posting period.

STATE GUIDELINES FOR CONSIDERING AN APPLICATION

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

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11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.

OPTIONS AND STAFF

City Council has the option of recommending approval or denial to the

RECOMMENDATION

Arizona Department of Liquor Licenses and Control.

Recommended Approach: The review of this application has shown that it meets zoning, parking, and public safety requirements.
Staff recommends approval.

Proposed Next Steps: The City Council's recommendation of approval or denial will be forwarded to the Department of Liquor Licenses and Control for their consideration. If the application is approved by the Department of Liquor Licenses and Control, the applicant should receive their license from the State within 15 days.

RESPONSIBLE

Planning and Development Services Department

DEPT(S)**STAFF CONTACT(S)**

Jeff Fisher
Plan Review and Permit Services Director
480-312-7619
E-mail: Jfisher@ScottsdaleAZ.Gov

APPROVED BY

Kroy Ekblaw	Date
Planning and Development Services General Manager	

Ed Gawf	Date
Deputy City Manager	

ATTACHMENTS

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- #4: Application

CITY COUNCIL REPORT



MEETING DATE: 07/02/2003 ITEM NO. _____ GOAL: Short- and Long-term Economic Prosperity

SUBJECT

World Affairs Council contract for international visitor services

REQUEST

Authorize Contract # 2003-119-COS, for \$27,540 in FY 2003-04 and \$28,230 in FY 2004-05, with the World Affairs Council of Arizona, Inc., to assist international visitors, provide protocol services and provide office space for the Scottsdale Sister City Committee.

Related Policies, References:

Contract #2001-091-COS, a similar contract, was approved by the City Council on June 18, 2001. That contract expires on June 30, 2003.

BACKGROUND

The non-profit World Affairs Council (WAC) was founded in 1964 and moved from Phoenix to Scottsdale in the 1980s. Scottsdale has contracted with the WAC since 1994 to provide protocol services for international visitors to the city and schedule visits as the local arm of the National Council for International Visitors, affiliated with the U.S. State Department. The WAC also provides office space and equipment and limited services for the Scottsdale Sister Cities Committee.

The National Council for International Visitors and its local affiliates were nominated for the 2001 Nobel Peace Prize for their volunteer work in international relations.

During the past two years, the WAC has exceeded its contractual obligation to bring at least 350 international visitors to Scottsdale. In the current fiscal year, the organization brought 450 visitors from nations around the world, including Uruguay, Brazil, Russia, Korea, the People's Republic of China, Denmark, Poland, Indonesia and Australia.

ANALYSIS & ASSESSMENT

This action would continue the city's contract with the WAC to assist international visitors traveling to Scottsdale under U.S. State Department programs, provide protocol services to the city and provide office space for the Sister Cities program.

The proposed contract is for the same services provided by the WAC for the past two years. The contract amount was for \$26,000 for the 2001-02 Fiscal Year and \$27,000 for the 2002-03 Fiscal Year. The increases in the proposed contract amounts for FY 2003-04 and FY 2004-05 are based on inflation rates of 2 and 2.5 percent, respectively, as recommended in the city's budget manual.

Under the contract, WAC must bring at least 350 international visitors a year to Scottsdale. If the WAC meets those minimum obligations, the economic impact is

Action Taken _____

expected to exceed \$310,000 annually, based on average daily expenditure estimates provided by the Economic Vitality Department. The economic impact of their activities during the current fiscal year is conservatively estimated at more than \$400,000, based on their bringing 450 international visitors to the city who stayed an average of five nights.

There are other intangible benefits. Because of the WAC's presence in Scottsdale, visitors from foreign governments stay in the city, tour Scottsdale facilities, businesses and organizations, visit with local business operators, elected officials, government staff and others to learn about economics, business, law, local government and other facets of life in the United States. They establish local connections while they are here.

Because it provides office space, meeting rooms and office equipment for the Scottsdale Sister Cities Committee, the WAC also supports the continuation of the Sister Cities program and the city's relationships with its four Sister Cities. The city has a contract with the Sister Cities Commission to provide \$10,000 to support the Sister Cities Committee, primarily to provide part-time clerical support for the organization.

Recent staff action.

WAC submits quarterly reports to the city staff under its present contract. The organization has met or exceeded the requirements of the contract.

Contract process and terms.

This is a sole-source contract exceeding \$20,000. Under purchasing guidelines, such contracts require City Council approval. No other organization in Scottsdale provides the types of services offered by the WAC. This organization is the only local affiliate of the National Council for International Visitors, which is affiliated with the U.S. State Department.

The contract requires the WAC to continue submitting quarterly reports on its activities, as well as a report to the City Council in January of 2005. At that time, WAC would need to indicate whether it will seek a new contract with the City..

Community involvement.

The WAC is a non-profit organization, which involves about 150 Scottsdale volunteers in its activities annually. This contract also provides office space for the Sister Cities Committee, another community-based organization.

RESOURCE IMPACTS

Available funding.

Funding for this contract in the amount of \$27,540 has been included in the 2003-04 Fiscal Year budget for the Office of the Mayor and City Council. The contract would not be renewed if the City Council approves no funding for it in the 2004-05 budget.

Future budget implications.

The second year of this contract calls for an increase of 2.5 percent to a total amount of \$28,230.

Staffing, workload impact. Administration of this contract requires no new staff resources. The WAC contract provides services that the city staff would not otherwise be able to provide for international visitors. This service requires nominal support from the city staff.

**OPTIONS & STAFF
RECOMMENDATION**

The City Council could choose any of the following options:

Description of Option A:

Fund the WAC at the suggested level of \$27,540 for FY 2003-04 and \$28,230 for FY 2004-05.

Description of Option B:

Fund the WAC at a lower amount. The organization would either need to cut services or find other funding sources.

Description of Option C:

Provide no city funding for WAC. Under this scenario, the organization would need to see private funds to make up the difference, seek funding from other government sources or scale back its operations.

Description of Option D:

Fund the WAC at the same amount but for a shorter amount of time. An annual contract reviewed by the City Council each year would be one such option.

Recommended Approach:

The staff recommends Option A, the proposed two-year contract with the WAC for services through June 2005.

RESPONSIBLE DEPT(S)

General Government, Office of the Mayor and City Council

STAFF CONTACT(S)

Jeff Kulaga, Executive Assistant, (480) 312-7496, jkulaga@ScottsdaleAZ.gov
Pat Dodds, Public Affairs Officer, (480) 312-2336, pdodds@ScottsdaleAZ.gov

APPROVED BY

Jeff Kulaga
Executive Assistant
jkulaga@ScottsdaleAZ.gov, (480) 312-7496

Date

Janet Dolan
City Manager
jdolan@ScottsdaleAZ.gov, (480) 312-2422

Date

ATTACHMENTS

1. Contract # 2003-119-COS

CITY COUNCIL REPORT



MEETING DATE: 07/02/2003 ITEM NO. _____ GOAL: Short- and Long-term Economic Prosperity

SUBJECT

Los Arcos Redevelopment Agreement

REQUEST

Adopt Resolution No. 6324 authorizing Contract No. 2003-115-COS, and approve Contract No. 2003-115-COS, a proposed Redevelopment Agreement between the City and Los Arcos Development, LLC for the redevelopment of the former Los Arcos Mall site at the southeast corner of Scottsdale Rd. and McDowell.

Related Policies, References:

- Council forms Los Arcos Redevelopment District -- 12/18/95
- Los Arcos Redevelopment Plan adopted -- 7/2/96
- Original Los Arcos Request for Proposals Issued -- 7/18/97
- Council Action on preferred Smith Group development option -- 2/5/02
- Council directs staff to proceed with negotiations with The Ellman Companies for the redevelopment of Los Arcos -- 2/18/03; reaffirmed by Council -- 3/3/03.

BACKGROUND

The former Los Arcos Mall opened in 1969, and was the focal point of commercial activity in the southern part of the community for several decades. In the early 1990's the mall began to decline, and the mall owner and the City looked at different options for revitalizing the mall and the immediate area. The Council formed the Los Arcos Redevelopment District in late 1995, and adopted a Redevelopment Plan for the area in 1996. In July 1997, the City issued a Request for Proposals on a 90-acre project site focused on the approximate 40 acre mall site (it also included Los Arcos Crossing, Papago Plaza, and other adjacent properties); The Ellman Companies, on behalf of Los Arcos Development, LLC (who had purchased the mall in late 1996) was the only respondent to this RFP, and was selected by the City to enter into an exclusive negotiation period with the City's Redevelopment Office and Redevelopment Board. This ultimately led to Ellman's proposal for the Coyote's Arena, but after a lengthy negotiation period, Ellman decided to build that facility in Glendale in March 2001. After this announcement, the City began a process of determining acceptable and feasible land uses for that site, which led to the hiring of the consultant team of Smith Group and Piper Jaffrey in May 2001. During the balance of 2001 and early 2002, the City and the consultants led an extensive community-based process, which led to a set of recommendations endorsed by Council. The focus of these recommendations was on the development of a community "town center" project, including neighborhood retail and services, some big box retail, a community event center,

Action Taken _____

and potentially some higher density residential product. At that same point in time, The Ellman Companies also proposed a “power center” development for Los Arcos, anchored by Super WalMart, Sam’s Club, and Lowe’s Home Improvement; they proposed an upfront \$42 million incentive package from the City to facilitate this project, later reduced to \$15 million upfront with the balance paid over time. Neither of those options was acceptable to the City. Demolition of the old mall was completed in 2002, and the land remains vacant today.

Los Arcos Mall generated approximately \$794,000 in total sales taxes to the City in 1995, its last full year with full occupancy. By 1998, the last full year before it lost its last anchor store, Los Arcos Mall generated \$502,000 in total sales taxes. The entire area is also showing a long term decline in total sales tax revenues. In the 85257 zip code (south of Thomas), the total retail sales taxes (exclusive of automobile sales) dropped from \$2,504,000 in 1998 to \$2,133,000, a drop of 15%. Factoring in inflation (about a 10% increase over this 5 year period), this means that this area is realizing a net loss of approximately 5% per year in retail sales. In addition to the Mall, a number of other major retailers in the area have closed in the area, including Smitty’s, Osco Drug, Best, and three auto dealers, along with several smaller businesses.

In early 2003, The Ellman Companies approached the City with a new proposal. The development plan was the same as had been proposed the previous year (a power center anchored by WalMart, Sam’s, and Lowe’s), but with a new proposed financial structure which eliminated any upfront contribution, thereby making the proposed transaction performance-based. On February 18, 2003, the City Council unanimously approved a motion to enter into negotiations with The Ellman Companies; this motion was reconsidered on March 3, 2003, and upheld on a 5-2 vote. The specific wording of the motion was as follows:

“Direct staff to negotiate a redevelopment agreement for Los Arcos with The Ellman Companies, and bring it back for Council consideration as quickly as possible, under the following general parameters:

- The development shall be a very high quality retail center, anchored by WalMart, Sam’s, and Lowe’s, and containing approximately 40,000 square feet of additional neighborhood retail services.
- It shall contain significant amenities, upgraded facades and landscaping, high quality materials, and other upgraded features.
- It shall be built within existing zoning guidelines meaning no variances for such things as height or setbacks, and special consideration shall be given to adjacent neighborhoods.
- City shall expedite all necessary approvals, and the developer shall open the entire facility including the public portions of the project as soon as possible, by a date to be set out in the development agreement.
- The City will financially participate in this transaction by sharing 49% of the total sales tax received from the site with the Developer for a period of up to 40 years (for the original uses and comparable replacement uses) up to a maximum of \$31.75 million plus interest, and may qualify for an additional \$10.0 million plus interest if project success exceeds projected sales levels. This sharing is on a performance basis only, and there are no guarantees from the City that the Developer will ever be able to recoup this amount. There is no upfront contribution from the City for this project, and the City will receive 100% of all other tax revenues (such as property tax at normal rates). The City’s dedicated sales tax funds for preservation and transportation are fully protected.

- In exchange for its participation, the City will receive title to the land that the parking is located on and to the parking garage with the Developer or major tenants to operate and maintain. Tenants will have a parking easement.
- The City will own and can develop the approximate three acre parcel east of 74th Street subject to an obligation to provide parking for Ellman's project."

Since that time, staff has negotiated a proposed Redevelopment Agreement (attachment A) with The Ellman Companies, keeping to the parameters outlined above. The Agreement includes a separate "Parking Lease" relating to the parking areas that the City will control, as well as a "Declaration of Restrictions" relating to the non-City owned portions of the site. A summary of the key terms and conditions in these documents follows below:

Redevelopment Agreement Key Terms and Conditions

1. The Development: The Ellman Companies (the "Developer") will construct a regional first-class retail "power center" anchored by a Super WalMart (minimum 183,000 sq.ft.), a Sam's Club (minimum 123,000 square feet), and a Lowe's Home Improvement Center (minimum 121,000 square feet). Additionally, there will be at least 25,000 square feet of small shop space, plus a restaurant of at least 5,000 square feet. The Developer will construct a two-level parking structure containing at least 2,100 parking spaces, and will also construct surface parking lots containing a minimum of 627 spaces, for a minimum total of 2,727 parking spaces. The project will include upgraded design, facades, landscaping, pedestrian amenities, public art, etc., all to be provided by the developer. The City's only participation will be in the construction of the streetscape improvements within the public rights-of-way adjacent to this site, but the City had planned to make those improvements anyway as a part of the McDowell Streetscape project.
2. Zoning/Regulatory Process: The project will be built within the existing zoning categories on the site. It will require Council approval of 6 conditional use permits – 1 each for the three "big box" anchors, 1 for the gas station, and 1 each for the auto lube/tire/repair components proposed for both WalMart and Sam's. The use permit process, along with the City's Development Review Board process and normal permitting process, will all be done in through separate processes apart from this consideration of the Redevelopment Agreement. The Developer has also requested the abandonment of 74th St., with access between McDowell and the neighborhood to the south to remain through the center as a private street; this request would also be handled through a separate public process. Approval of this Agreement does not obligate the City to any other approvals, and the site plan shown in the Redevelopment Agreement is conceptual only.
3. Construction Timing: For the entire project (with the exception of the two small restaurant pads located along the west side of the project, which have up to 2 additional years) the following deadlines must be met. The anchor stores must acquire title to their parcels by 12/31/04, construction of the project must commence by 7/31/05, and the project must complete and open by 12/31/05. Failure to meet any of these deadlines will result in the cancellation of the Agreement. The only extension to these deadlines will be in the cases of referendums or specific legal actions against this Agreement; in that case, the deadlines will be extended by a period necessary to resolve such matters, but not more than 3 years.

4. City Ownership: After the completion of the improvements, but prior to any payments by the City, the Developer will deed to the City title to the parking; this will include approximately 20 acres of land, plus all improvements on those lands, including the parking structure and the surface parking lots. Based on recent City appraisals, the land would be worth about \$11,750,000, while the parking improvements are valued by the Developer at \$11,510,000 (including construction costs plus architecture and engineering costs), for a total value of approximately \$23,260,000.
5. Parking Lease: All of the parking will be leased back to the project for an initial term of 40 years at a rate of \$1 per month, with the option to lease the parking beyond 40 years. Years 41-50 may be leased at a rate of \$400,000 per year; years 51-60 may be leased at a rate of \$450,000 per year; years 61-75 may be leased at a rate of \$500,000 per year; and years 76-99 may be leased at a rate to be determined at that time based on an appraisal of fair market value. The total value of the parking lease in years 41-75 would be \$16.0 million. The project will also assume all costs associated with the parking, including maintenance, operation, repairs, utilities, insurance, and security for the term of the lease and for any option periods.
6. City Financial Participation: The City will share with The Ellman Companies sales tax proceeds generated by the project, up to a maximum of \$36,750,000, plus interest at a rate of 7.18%, based on a sharing of 69% of the General Fund portion of the sales tax. The City's current sales tax rate is 1.4%, which is made up of the General Fund (unrestricted) portion of 1.0%, the dedicated transportation portion of 0.2%, and the dedicated preservation portion of 0.2%. Only the General Fund portion may be utilized for this investment; the dedicated funds for transportation and preservation will be fully retained by the City. The Developer's 69% of the General Fund portion of the sales tax equates to 49% ($0.69/1.4$) of the total sales tax collected at the site. The Developer receives no guarantees from the City as to the total amount of revenue the City will pay, as this is strictly performance based – only those sales tax revenues that are actually generated at the project will be available for sharing. The City's obligation to share in the sales tax revenues will cease when 40 years has elapsed (whether or not the Developer has recouped his investment), when the Developer has been paid \$36.75 million plus interest, or when the Developer has failed to perform under the terms of the Agreement (such as if two or more of the anchor stores are closed for 4 years). The sales tax eligible for sharing shall include the construction sales tax, the lease sales tax, and retail sales tax charged on the sale of retail products. No other taxes generated by this site (such as property tax) are eligible for sharing; these will be paid at normal rates. The inclusion of an interest rate is based on the City's desire to pay this obligation over time based on the project's performance; if the City wanted to make a one-time lump sum payment of \$36.75 million upfront, it could do that, and avoid paying any interest. However, doing so would put the City at risk for the performance of the center, rather than the Developer.
7. Timing of City Payments: The City will not be obligated to make any payments until the entire project is completed – defined as the opening of all three of the anchor stores, and the completion of the shops space (with the exception of the two pads, which do not have to be completed for 2 additional years). If there is a partial opening prior to the total completion, the sales tax

revenues paid by the open tenants will be held until the project is complete, and then will be paid with the first quarterly installment. If a tenant does open early, in no case may the payments for that tenant exceed 40 years. After completion, the City will make payments on a quarterly basis, based on actual tax revenues received by the City in the previous quarter.

8. Loss of Tenants: In the event that one of the anchor tenants closes, the Developer will not collect any tax from that parcel, as it would not be generating any tax revenues; additionally, if that space remains unoccupied for 4 years, no further tax revenues from that portion of the site will be paid even if a replacement tenant is secured later. In the event that two or more of the anchors close, and remain closed, for an overlapping period of 4 consecutive years, then the City will have the right to cancel the entire Agreement, in which case no further payments will be made by the City.
9. Replacement Tenants: If an anchor tenant closes, the Developer has the right to substitute an acceptable replacement tenant, in order to keep the Agreement in place as to that anchor tenant space, so long as that substitute tenant is open within the 4-year period noted above. The acceptable replacement tenants fall into two categories – by right, and by City approval. The “by right” replacement tenants will be deemed automatically acceptable if they meet specific criteria outlined in the Redevelopment Agreement (they must be national retailers, have a minimum number of stores, have a minimum average sales volume, have a minimum store size, have an investment grade credit rating, etc.). The “by approval” replacement tenants will be acceptable only if the City specifically approves them. The Developer anticipates having a first right to acquire back the sites from the anchors in the event of a closing.
10. Breach and Default: In the event of a default or breach under the terms of this Agreement, the City has the right to cancel the Agreement should the Developer fail to provide acceptable remedies during the default notice period.
11. Assignments: The Developer does have the right to assign all or a part of this Agreement. Certain assignments are by right, such as the sale of parcels to anchor tenants, while other assignments would require the approval of the City.
12. Land East of 74th Street: The City has the right to use the East Parking Lot (located on the east side of 74th Street, north of Culver) for development, so long as it replaces the surface parking on that site with an equal number of spaces. For example, if the City built underground parking with a like number of spaces, it could then utilize the surface and air rights for some other development.
13. Required Features: The following are examples of the key uses and activities that are required at this project:
 - a. Accommodation for transit (i.e. bus bays, shelters)
 - b. Upgraded features and amenities designed to create a first class shopping center – facades, landscaping, lighting, street furniture, pedestrian linkages, public plazas, pavement treatments, public art, etc.
 - c. Free public parking
 - d. The requirement to provide a non-exclusive parking easement for the Los Arcos United Methodist Church, in order to allow them to continue to have access to the parking lot directly west of the church.

14. Prohibited Uses: The following are examples of the key uses and activities that are expressly prohibited at this project:
 - a. Sexually oriented businesses
 - b. Gambling
 - c. Bars/Nightclubs
 - d. Massage parlors
 - e. Sale of used merchandise (i.e. thrift stores, pawn shops, flea markets)
 - f. Overnight recreational vehicle parking
 - g. Day laborer solicitation
 - h. Advertising signs (other than tenant signage)
15. Legal Costs: The Developer will bear all the costs related legal action involving the City and the Developer relating to this Agreement.

ANALYSIS & ASSESSMENT

Significant issues to be addressed. Numerous issues have been raised by the community regarding this proposed transaction. The City has received several hundred comments from citizens; these comments typically fall into the following general categories:

1. The Impact of Big Box Stores on the Neighborhoods: Concerns have been raised about the potential negative impacts of this development on nearby neighborhoods, such as traffic, noise, undesirable uses, etc. This proposed project will have less square footage than the former Los Arcos Mall. The Redevelopment Agreement does include provisions prohibiting undesirable uses (i.e. massage parlors, bars, used merchandise stores), and does specify the requirements to provide for the development of a first class retail facility. The Developer has pledged to work to mitigate any potential impacts. However, the specifics of the actual development plan will be determined through the City's use permit process for the "big box" stores.
2. The Impact of Big Box Stores on Existing Businesses: Concerns have been raised about the potential impact of the big box stores on existing businesses in the area. Research into the impact of big box stores has been inconclusive. There have been a number of studies that have documented the impact of WalMart and other big box stores on smaller, rural communities, but no definitive studies of the actual impact of these types of stores on urban areas have been found. Economic Vitality staff contacted a number of comparable communities in which WalMart had recently opened new stores; none of the communities indicated that they had experienced overall negative impacts, and most felt that the addition had resulted in a net positive for their communities. Based on this and other research, Economic Vitality would offer the following comments:
 - a. Some of the existing businesses in the area will be negatively impacted by the proposed big box retailers; other businesses may be positively impacted by the additional customer traffic to this area. However, there is no way to definitively estimate what these impacts may be.
 - b. If nothing happens at Los Arcos, businesses will also be negatively impacted and overall sales will continue to decline in this area.
 - c. The addition of this center will result in a reduction in the leakage of retail sales by Scottsdale residents to businesses in adjacent communities, and will result in residents of adjacent communities

coming to Scottsdale to shop. Currently, due to the lack of these types of facilities in south Scottsdale, shoppers in south Scottsdale, north Tempe, east Phoenix, and the Salt River Indian Community, typically shop at centers outside of Scottsdale, such as the Pavilions and Arcadia Crossings.

3. Analysis by City Financial Advisors: Concern has been raised that the City's Financial Advisor, Piper Jaffrey, has not yet reviewed the final proposal to provide comments on the fiscal impact of this transaction. Piper Jaffrey is currently analyzing this proposal and will shortly provide an analysis to the City.
4. Financial Subsidies are a Poor Policy: There have been comments received that suggest the City should never use financial incentives for any economic development purposes. In general, the City has been very judicious with the use of financial incentives, averaging just one incentive per year, and all of them have been performance-based. When the City does use incentives, it is done when there is a compelling reason for using them, such as for the attraction of major tax generators, for the attraction of desirable employers, or for facilitation of major redevelopment projects. In the case of Los Arcos, if incentives are not provided, the owner of the property has indicated that the alternative is to leave the property in its current undeveloped condition. Additionally, the Los Arcos Redevelopment Plan, adopted in July 1996, contemplated the use of financial incentives for the redevelopment of Los Arcos.
5. Potential Alternative Uses: Concerns have been raised that City has not fully explored other alternatives that may be available for this site. Suggestions have been made that different retailers might be available, a different type of development might be feasible, or that other key users (such as ASU) are willing to go on this site. One of the primary issues is that the City does not own this site, and therefore must be willing to work with the owner on alternatives. The Ellman Company has not been willing to consider alternative plans or uses, believing that these options are not viable, and therefore even if alternative users were available, the City does not have the ability to look at these unless it was willing to directly acquire the site.
6. Alternative Options: Similarly, suggestions have been made that the City should consider its alternative options, including the potential for condemnation, or the potential to simply leave this solution up to the free market. These options are available to the City, but there is uncertainty as to how long these options would take before there would be development on the site, or how the City would pay for this option.
7. Timing of this Proposal: Concerns have been expressed that the City is rushing into proposal, and that it should wait until further information is received, such as a complete economic impact analysis, an analysis of other possible alternative uses, or the development of an overall master plan for the redevelopment of the entire southern portion of the City. While the City could do these things, they would extend the time that this site sits empty.
8. Analysis of the Pro-forma: The Developer's pro-forma has been questioned by a number of people, who believe that it is too optimistic, and therefore should not be used as the basis for this Agreement. The Developer has used sales per

square foot numbers that are higher than what these types of retailers typically generate in Scottsdale and the metro area, and uses growth rates that are also higher than what typical retailers generate over time. Economic Vitality staff analysis, using more conservative projections for both sales per square foot and growth rates, estimates that the net present value of this transaction would be \$17 million over 20 years, or \$25 million over 40 years. Since the proposed transaction is strictly performance based, if the pro-forma is optimistic, the Developer will receive less than the maximum amount, and in no case will the Developer ever receive more than 49% of the total revenues generated by this project.

9. Deal point terms: Comments have been made to the effect that the deal points are too expensive, the term is too long, etc. and that the Developer needs to modify those terms. Through the negotiation process, these terms were determined to be the minimum that would be acceptable to the Developer to proceed with this project.
10. Potential Legal Challenges: Concerns have been raised that this Agreement will be challenged on a variety of legal issues, most notably relating to the Gift Clause of the State Constitution. The City Attorney's Office has spent extensive time reviewing this Agreement, and feels that it is legally defensible.

Community involvement. Due to the extremely high profile of this project, this has had more public discussion and comment than any other development project in the City's history. Several groups, both pro and con, have been formed around this issue, and City Council and staff have received hundreds of comments.

RESOURCE IMPACTS

Available funding. The City's financial obligation under this Agreement is tied to revenues directly produced by the site. City payments to The Ellman Companies will be made quarterly, based on a sharing of 69% of the General Fund portion of the total sales tax collections received by the City during each previous quarter. The City's obligations will immediately end at the occurrence of one of the following:

- 40 years has elapsed
- The Developer has been paid \$36.75 million plus interest
- The Developer has failed to perform under the terms of the Agreement, such as if two or more of the anchor stores are closed for 4 years.

Only the City's Transaction Privilege Tax (sales tax) revenues are part of this Agreement; other City revenues, such as property tax, will continue to be paid to the City.

Staffing, workload impact. No significant staffing or workload impacts are anticipated as a result of this Agreement.

Maintenance requirements. The Developer will be solely responsible for all maintenance, operations, repair, utilities, insurance, and security. There are no City obligations for these activities.

Future budget/financial implications. Approval of this Agreement would obligate the City to share in sales tax revenues derived from this site per the terms of this Agreement. The City will not receive less than 51% of the total revenues off of this site. The City's Financial Services Dept. has noted the following observations:

- The proposed Redevelopment Agreement does not have any adverse cashflow or budgetary risk for the City. All payments will be percentage rebates of performance based revenue streams – from revenues that do not currently exist or that are currently being forecast for financial planning purposes. Future year financial plan revenue estimates will be adjusted based upon performance of the development, and rebate and interest expense payments will be budgeted per the terms of the Agreement.
- The City of Scottsdale will receive title to land and parking structures that will be booked as City assets, and will be subsequently leased back to the Developer.
- Although the payments under this Agreement will be performance-based, in order to comply with Generally Accepted Accounting Principles, the City will be required to record a long-term liability on its governmental activities balance sheet. The amount would be equal to the net present value of the estimated revenue of \$36,750,000. The liability amount would be reduced as the performance based revenue and interest payments are made to the Developer – and will be relieved entirely after 40 years.

Cost recovery options. The City will receive – after completion of the improvements but prior to the start of any City payments – title to the parking structure, surface parking lots and other improvements, and the land the parking is located on. There are approximately 2,800 parking spaces proposed for the development, and the parking will cover about 20 acres of land (half the site). Based on recent appraisals commissioned by the City, the value of the land would be approximately \$11,750,000, while the Developer’s pro-forma indicates that the construction costs for the parking structure and surface parking will be \$11,510,000, for an approximate total value of \$23,260,000. Additionally, should the Developer exercise the option to lease the parking from the City beyond year 40, the income to the City in years 41-75 will be \$16,000,000, followed by an adjustment in years 76-99 to an amount based on the fair market value of the parking at the time.

OPTIONS

Option A – Approve Agreement: Approve the proposed Redevelopment Agreement as written.

Option B – Approve with Modifications: Approve the Redevelopment Agreement with any modifications the Council may desire. Amending the terms of the Agreement may, however, result in the Developer declining to sign it.

Option C – Do Not Approve Agreement; Explore Other Options: Do not approve the Agreement, and instead consider other options that may be available to the City. The City could issue a Request for Proposals (RFP) to determine potential interest from other developers and for other types of projects that might be feasible. For the RFP to be successful, the City would need to be able to provide for the ownership of the site, which would require either a direct purchase from the current owner, or the possible use of eminent domain (condemnation). The Developer has indicated a willingness to directly sell this property to the City for \$60 million, despite the City’s recent appraisal indicating a true market value of this site of \$23 million. Alternatively, the City could look at condemnation as a means of acquiring the site at an amount closer to fair market value; the process to acquire by condemnation is estimated to take between 2-4 years, and has recently been made more difficult by the Arizona State Legislature. There are also no guarantees that the City would prevail on the right to acquire by condemnation, nor

are there any assurances the ultimate valuation by the Courts would be at the same amount as the City's recent appraisal. Additionally, under a condemnation scenario, the City currently does not have the financial resources to fund the acquisition of this site.

Option D – Do Not Approve Agreement; Wait for Free Market Solutions: Do not approve the Agreement, and instead wait for the free market to provide for the ultimate redevelopment of this site.

Proposed Next Steps: If the City Council should approve the Redevelopment Agreement, the next steps would be the consideration of the required Use Permits and the abandonment of 74th Street, which would likely come forward for Council consideration within 4 months, followed by Development Review Board consideration approximately 2-4 months after that, and then Plans Approval/ Building Permits 1-2 months after that. The Developer has indicated that if all necessary approvals are received in time, they would like to open the project in late 2004 or early 2005.

RESPONSIBLE DEPT(S)

Economic Vitality

STAFF CONTACTS

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APPROVED BY

David B. Roderique

Date

Janet M. Dolan

Date

ATTACHMENTS

- A. Redevelopment Agreement No. 2003-115-COS
- B. Resolution No. 6324